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Attorney Docket No. 15966-575B (Cura-75B)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

COPY

APPLICANT(S): Prayaga *et al.*

SERIAL NUMBER: 09/679,740

EXAMINER: Not yet Assigned

FILING DATE: October 5, 2000

ART UNIT: 1645

FOR: Endozepine-Like Polypeptides and Polynucleotides Encoding Same

July 22, 2004

Boston Massachusetts

MAIL STOP PETITION

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**PETITION UNDER 37 C.F.R. § 1.181 TO
WITHDRAW HOLDING OF ABANDONMENT**

1. This paper is in response to the Notice of Abandonment mailed on June 10, 2004. The Notice of Abandonment indicated that the present application is considered abandoned in view of Applicants' failure to timely file a reply to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures ("Notice to Comply") mailed on February 14, 2002.
2. The undersigned asserts that a full search of the file jacket and docket records for the above-referenced application indicates that the Notice to Comply was never received by this office. Thus, no Notice to Comply was ever docketed for response.
3. Applicants therefore respectfully submit that any consideration of Abandonment of the present application is in error, and that such considerations be withdrawn.

4. The statements below are made as to the exact facts that are relied upon to establish the non-receipt of the Notice to Comply by the office of the Attorney of Record.
5. On October 5, 2000, Attorneys for Applicants filed a Request for a Nonprovisional Application under 37 C.F.R. § 1.53(b) and an unexecuted Combined Declaration and Power of Attorney instructing the Office to address all telephone calls and general correspondence to the undersigned at the address listed therein (same as below). A postcard listing the contents of the filing was also sent and was duly returned bearing a label affixed by the Office indicating an application number 09/679,740 and as having been received on 10/05/00.
6. A file was created according to the procedures outlined in the Declaration of Mr. Richard Tomlins (Exhibit A).
7. On June 5, 2001, Attorneys for Applicants filed a response to the Notice to File Missing Parts mailed January 12, 2001, including the Combined Declaration and Power of Attorney required by the January 12, 2001 Notice and Petition for a Three-Month Extension (along with the appropriate fee).
8. On September 14, 2001, Attorneys for Applicants filed a Response to a corrected Notice to File Missing Parts mailed July 17, 2001, including the sequence listing in paper format, computer readable form (CRF), and a statement in support of the CRF, as required by the July 17, 2001 corrected Notice.
9. On May 24, 2004, Attorneys for Applicants filed a status inquiry, including copies of the September 14, 2001 Response to corrected Notice to File Missing Parts.
10. A Notice of Abandonment was mailed on June 10, 2004, and received by Attorneys for Applicants on or about June 21, 2004.
11. In rendering a decision on this Petition, Attorneys for Applicants also request that the Commissioner consider the following sequence of events: a Notice to Comply provides two

months from the mailing date in which to file a response, for which extensions may be obtained for an additional five months. Therefore, the final deadline to respond to the Notice to Comply mailed on February 14, 2002 would have occurred on September 14, 2002. Presumably a Notice of Abandonment would have been received within several months thereafter. In the instant case, however, the Notice of Abandonment was only mailed June 10, 2004, almost twenty-one months after the final deadline for response had passed, and only after Attorneys for Applicants filed a status inquiry. The undersigned respectfully asserts that this time span represents an unusually long delay and supports Applicants' contention that the Notice to Comply was not received, and therefore could not be replied to in order to avoid abandonment.

12. Under the requirements set forth in 37 C.F.R. § 1.181, the following documents are submitted herewith in support of this Petition:

- 9.1 a declaration of Mr. Richard Tomlins, Patent Manager for the Offices of the Attorneys of Record (Exhibit A);
- 9.2 a true copy of the docket record for 15966-575B, as required by MPEP § 711.03(c), Part II (Exhibit B); and
- 9.3 a true copy of the mail log for the time period of February 12, 2002 to March 14, 2002 (Exhibit C).

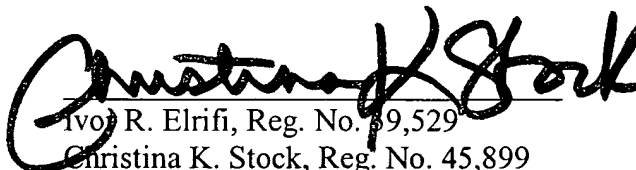
13. No fees are believed due with the submission of this Petition. However, the Commissioner is hereby authorized to charge any necessary fees that may be due to Account No. 50-0311, Reference No. 15966-575B (Cura-75B).

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14. Applicant respectfully requests that the notice of abandonment of this application be withdrawn. Should the Commissioner have any questions concerning this petition, he is invited to telephone the undersigned at the number provided.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Christina K. Stock", written over a horizontal line.

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